

House File 2309 - Introduced

HOUSE FILE 2309

BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HF 2049)

A BILL FOR

1 An Act relating to controlled substances, including by
2 modifying the penalties for controlled substances containing
3 cocaine base, enhancing the penalties for imitation
4 controlled substances, modifying the controlled substances
5 listed in schedules I, III, and IV, and temporarily
6 designating substances as controlled substances, and
7 providing penalties.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 124.101, Code 2016, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 15A. "*Imitation controlled substance*" means
4 a substance which is not a controlled substance but which by
5 color, shape, size, markings, and other aspects of dosage unit
6 appearance, and packaging or other factors, appears to be or
7 resembles a controlled substance. The board of pharmacy may
8 designate a substance as an imitation controlled substance
9 pursuant to the board's rulemaking authority and in accordance
10 with chapter 17A. "*Imitation controlled substance*" also
11 means any substance determined to be an imitation controlled
12 substance pursuant to section 124.101B.

13 Sec. 2. NEW SECTION. 124.101B Factors indicating an
14 imitation controlled substance.

15 If a substance has not been designated as an imitation
16 controlled substance by the board of pharmacy and if dosage
17 unit appearance alone does not establish that a substance is an
18 imitation controlled substance, the following factors may be
19 considered in determining whether the substance is an imitation
20 controlled substance:

21 1. The person in control of the substance expressly or
22 impliedly represents that the substance has the effect of a
23 controlled substance.

24 2. The person in control of the substance expressly
25 or impliedly represents that the substance because of its
26 nature or appearance can be sold or delivered as a controlled
27 substance or as a substitute for a controlled substance.

28 3. The person in control of the substance either demands or
29 receives money or other property having a value substantially
30 greater than the actual value of the substance as consideration
31 for delivery of the substance.

32 Sec. 3. Section 124.201, subsection 4, Code 2016, is amended
33 to read as follows:

34 4. If any new substance is designated as a controlled
35 substance under federal law and notice of the designation is

1 given to the board, the board shall similarly designate as
 2 controlled the new substance under [this chapter](#) after the
 3 expiration of thirty days from publication in the federal
 4 register of a final order designating a new substance as a
 5 controlled substance, unless within that thirty-day period
 6 the board objects to the new designation. In that case the
 7 board shall publish the reasons for objection and afford
 8 all interested parties an opportunity to be heard. At
 9 the conclusion of the hearing the board shall announce its
 10 decision. Upon publication of objection to a new substance
 11 being designated as a controlled substance under [this chapter](#)
 12 by the board, control under [this chapter](#) is stayed until the
 13 board publishes its decision. If a substance is designated
 14 as controlled by the board under [this subsection](#) the control
 15 shall be considered a temporary and if, within sixty days after
 16 the next regular session of the general assembly convenes,
 17 the general assembly has not made the corresponding changes
 18 in [this chapter](#), the temporary designation of control of
 19 the substance by the board shall be nullified amendment to
 20 the schedules of controlled substances in this chapter. If
 21 the board so designates a substance as controlled, which
 22 is considered a temporary amendment to the schedules of
 23 controlled substances in this chapter, and if the general
 24 assembly does not amend this chapter to enact the temporary
 25 amendment and make the enactment effective within two years
 26 from the date the temporary amendment first became effective,
 27 the temporary amendment is repealed by operation of law two
 28 years from the effective date of the temporary amendment. A
 29 temporary amendment repealed by operation of law is subject to
 30 section 4.13 relating to the construction of statutes and the
 31 application of a general savings provision.

32 Sec. 4. Section 124.204, subsection 4, paragraph ai,
 33 subparagraphs (3), (4), and (5), Code 2016, are amended by
 34 striking the subparagraphs.

35 Sec. 5. Section 124.204, subsection 4, paragraph aj, Code

1 2016, is amended by striking the paragraph and inserting in
2 lieu thereof the following:

3 *aj.* 5-methoxy-N,N-dimethyltryptamine. Some trade or other
4 names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT.

5 Sec. 6. Section 124.204, subsection 4, paragraph *ak*, Code
6 2016, is amended by striking the paragraph and inserting in
7 lieu thereof the following:

8 *ak.* 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E).

9 Sec. 7. Section 124.204, subsection 4, Code 2016, is amended
10 by adding the following new paragraphs:

11 NEW PARAGRAPH. *al.* 2-(2,5-Dimethoxy-4-
12 methylphenyl)ethanamine (2C-D).

13 NEW PARAGRAPH. *am.* 2-(4-Chloro-2,5-
14 dimethoxyphenyl)ethanamine (2C-C).

15 NEW PARAGRAPH. *an.* 2-(4-Iodo-2,5-
16 dimethoxyphenyl)ethanamine (2C-I).

17 NEW PARAGRAPH. *ao.* 2-[4-(Ethylthio)-2,5-
18 dimethoxyphenyl]ethanamine (2C-T-2).

19 NEW PARAGRAPH. *ap.* 2-[4-(Isopropylthio)-2,5-
20 dimethoxyphenyl]ethanamine (2C-T-4).

21 NEW PARAGRAPH. *aq.* 2-(2,5-Dimethoxyphenyl)
22 ethanamine (2C-H).

23 NEW PARAGRAPH. *ar.* 2-(2,5-Dimethoxy-4-
24 nitrophenyl)ethanamine (2C-N).

25 NEW PARAGRAPH. *as.* 2-(2,5-Dimethoxy-4-(n)-
26 propylphenyl)ethanamine (2C-P).

27 Sec. 8. Section 124.204, subsection 6, paragraph *i*,
28 subparagraph (3), Code 2016, is amended by striking the
29 subparagraph and inserting in lieu thereof the following:

30 (3) 3,4-Methylenedioxy-N-methylcathinone (methydone).

31 Sec. 9. Section 124.204, subsection 6, paragraph *i*,
32 subparagraphs (18), (19), (20), (21), and (22), Code 2016, are
33 amended by striking the subparagraphs and inserting in lieu
34 thereof the following:

35 (18) 4-methyl-N-ethylcathinone. Other names: 4-MEC,

1 2-(ethylamino)-1-(4-methylphenyl)propan-1-one.
2 (19) 4-methyl-alpha6 pyrrolidinopropiophenone.
3 Other names: 4-MePPP, MePPP,
4 4-methyl-[alpha]-pyrrolidinopropiophenone, 8
5 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)-propan-1-one.
6 (20) Pentedrone. Other names:
7 [alpha]-methyaminovalerophenone,
8 2-(methylamino)-1-phenylpentan-1-one.
9 (21) Pentylone. Other names: bk-MBDP,
10 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one.
11 (22) Alpha-pyrrolidinobutiophenone. Other names:
12 [alpha]-PBP, 1-phenyl-2-(pyrrolidin-1-yl)butan-1-one.
13 Sec. 10. Section 124.204, subsection 6, paragraph i,
14 subparagraphs (23), (24), (25), and (26), Code 2016, are
15 amended by striking the subparagraphs.
16 Sec. 11. Section 124.204, subsection 9, Code 2016, is
17 amended by adding the following new paragraphs:
18 NEW PARAGRAPH. 0a. HU-210. [(6aR,10aR)-9-(hydroxymethyl)-
19 6,6-dimethyl-3-(2-methyloctan-2-yl) 6a,7,10,10a-
20 tetrahydrobenzo[c] chromen-1-ol)].
21 NEW PARAGRAPH. 00a. HU-211(dexanabinol,
22 (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-
23 methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c] chromen-1-ol).
24 NEW PARAGRAPH. 000a. Unless specifically exempted or unless
25 listed in another schedule, any material, compound, mixture,
26 or preparation which contains any quantity of cannabimimetic
27 agents, or which contains their salts, isomers, and salts of
28 isomers whenever the existence of such salts, isomers, and
29 salts of isomers is possible within the specific chemical
30 designation.
31 (1) The term "*cannabimimetic agents*" means any substance
32 that is a cannabinoid receptor type 1 (CB1 receptor) agonist as
33 demonstrated by binding studies and functional assays within
34 any of the following structural classes:
35 (a) 2-(3-hydroxycyclohexyl)phenol with substitution at the

1 5-position of the phenolic ring by alkyl or alkenyl, whether or
2 not substituted on the cyclohexyl ring to any extent.

3 (b) 3-(1-naphthoyl)indole or 3-(1-naphthylmethane)indole by
4 substitution at the nitrogen atom of the indole ring, whether
5 or not further substituted on the indole ring to any extent,
6 whether or not substituted on the naphthoyl or naphthyl ring
7 to any extent.

8 (c) 3-(1-naphthoyl)pyrrole by substitution at the nitrogen
9 atom of the pyrrole ring, whether or not further substituted in
10 the pyrrole ring to any extent, whether or not substituted on
11 the naphthoyl ring to any extent.

12 (d) 1-(1-naphthylmethylene)indene by substitution of
13 the 3-position of the indene ring, whether or not further
14 substituted in the indene ring to any extent, whether or not
15 substituted on the naphthyl ring to any extent.

16 (e) 3-phenylacetylindole or 3-benzoylindole by substitution
17 at the nitrogen atom of the indole ring, whether or not further
18 substituted in the indole ring to any extent, whether or not
19 substituted on the phenyl ring to any extent.

20 (2) Such terms include:

21 (a) CP 47,497 and homologues 5-(1,1-dimethylheptyl)-2-
22 [(1R,3S)-3-hydroxycyclohexyl]phenol.

23 (b) JWH-018 and AM678 1-Pentyl-3-(1-naphthoyl)indole.

24 (c) JWH-073 1-Butyl-3-(1-naphthoyl)indole.

25 (d) JWH-200[1-[2-(4-morpholinyl)ethyl]-1H-
26 indol-3-yl]-1-naphthalenyl-methanone.

27 (e) JWH-19 1-hexyl-3-(1-naphthoyl)indole.

28 (f) JWH-81 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole.

29 (g) JWH-122 1-pentyl-3-(4-methyl-1-naphthoyl)indole.

30 (h) JWH-250 1-pentyl-3-(2-methoxyphenylacetyl)indole.

31 (i) RCS-4 and SR-19 1-pentyl-3-[(4methoxy)-benzoyl]indole.

32 (j) RCS-8 and SR 18 1-cyclohexylethyl-3-
33 (2-methoxyphenylacetyl)indole.

34 (k) AM2201 1-(5-fluoropentyl)-3-(1-naphthoyl)indole.

35 (l) JWH-203 1-pentyl-3-(2-chlorophenylacetyl)indole.

1 (m) JWH-398 1-pentyl-3-(4-chloro-1-naphthoyl)indole.
 2 (n) AM694 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole.
 3 (o) Cannabicyclohexanol or CP-47,497 C8-homolog 5-
 4 (1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol.
 5 NEW PARAGRAPH. *Od.* N-(1-amino-3-methyl-1-oxobutan-2-
 6 yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide. Other
 7 names: AB-FUBINACA.
 8 NEW PARAGRAPH. *00d.* N-(1-amino-
 9 3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-
 10 1 H-indazole-3-carboxamide. Other names: ADB-PINACA.
 11 NEW PARAGRAPH. *000d.* Quinolin-8-yl
 12 1-pentyl-1H-indole-3-carboxylate.
 13 Other names: PB-22, QUPIC.
 14 NEW PARAGRAPH. *0000d.* Quinolin-8-yl
 15 1-(5-fluoropentyl)-1H-indole-3-carboxylate. Other names:
 16 5-fluoro-PB-22, 5F-PB-22.
 17 NEW PARAGRAPH. *00000d.* N-(1-amino-3-methyl-1-oxobutan-
 18 2-yl)-1-pentyl-1H-indazole-3-carboxamide. Other names:
 19 AB-PINACA.
 20 NEW PARAGRAPH. *000000d.* N-(1-amino-3-methyl-1-oxobutan-
 21 2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide. Other
 22 names: AB-CHMINACA.
 23 NEW PARAGRAPH. *0000000d.* [1-(5-fluoropentyl)-1H-indazol-
 24 3-yl](naphthalen-1-yl)methanone. Other names: THJ-2201.
 25 Sec. 12. Section 124.208, subsection 5, paragraph a,
 26 subparagraphs (3) and (4), Code 2016, are amended by striking
 27 the subparagraphs.
 28 Sec. 13. Section 124.210, subsection 2, Code 2016, is
 29 amended by adding the following new paragraph:
 30 NEW PARAGRAPH. *c.* 2-[(dimethylamino)methyl]-1-
 31 (3-methoxyphenyl)cyclohexanol, its salts, optical and geometric
 32 isomers, and salts of these isomers (including tramadol).
 33 Sec. 14. Section 124.210, subsection 3, Code 2016, is
 34 amended by adding the following new paragraphs:
 35 NEW PARAGRAPH. *bb.* Alfaxalone.

1 NEW PARAGRAPH. *bc.* Suvorexant.

2 Sec. 15. Section 124.401, subsection 1, unnumbered
3 paragraph 1, Code 2016, is amended to read as follows:

4 Except as authorized by *this chapter*, it is unlawful for any
5 person to manufacture, deliver, or possess with the intent to
6 manufacture or deliver, a controlled substance, a counterfeit
7 substance, ~~or~~ a simulated controlled substance, or an imitation
8 controlled substance, or to act with, enter into a common
9 scheme or design with, or conspire with one or more other
10 persons to manufacture, deliver, or possess with the intent to
11 manufacture or deliver a controlled substance, a counterfeit
12 substance, ~~or~~ a simulated controlled substance, or an imitation
13 controlled substance.

14 Sec. 16. Section 124.401, subsection 1, paragraph a,
15 unnumbered paragraph 1, Code 2016, is amended to read as
16 follows:

17 Violation of *this subsection*, with respect to the following
18 controlled substances, counterfeit substances, ~~or~~ simulated
19 controlled substances, or imitation controlled substances, is a
20 class "B" felony, and notwithstanding section 902.9, subsection
21 1, paragraph "b", shall be punished by confinement for no
22 more than fifty years and a fine of not more than one million
23 dollars:

24 Sec. 17. Section 124.401, subsection 1, paragraph a,
25 subparagraph (3), Code 2016, is amended to read as follows:

26 (3) More than ~~fifty~~ one hundred twenty-five grams of a
27 mixture or substance described in subparagraph (2) which
28 contains cocaine base.

29 Sec. 18. Section 124.401, subsection 1, paragraph a, Code
30 2016, is amended by adding the following new subparagraph:

31 NEW SUBPARAGRAPH. (8) More than ten kilograms of a
32 mixture or substance containing any detectable amount of those
33 substances identified in section 124.204, subsection 9.

34 Sec. 19. Section 124.401, subsection 1, paragraph b,
35 unnumbered paragraph 1, Code 2016, is amended to read as

1 follows:

2 Violation of this subsection with respect to the following
3 controlled substances, counterfeit substances, ~~or~~ simulated
4 controlled substances, or imitation controlled substances is a
5 class "B" felony, and in addition to the provisions of section
6 902.9, subsection 1, paragraph "b", shall be punished by a
7 fine of not less than five thousand dollars nor more than one
8 hundred thousand dollars:

9 Sec. 20. Section 124.401, subsection 1, paragraph b,
10 subparagraph (3), Code 2016, is amended to read as follows:

11 (3) More than ~~ten~~ thirty-five grams but not more than
12 ~~fifty~~ one hundred twenty-five grams of a mixture or substance
13 described in subparagraph (2) which contains cocaine base.

14 Sec. 21. Section 124.401, subsection 1, paragraph b, Code
15 2016, is amended by adding the following new subparagraph:

16 NEW SUBPARAGRAPH. (9) More than five kilograms but not
17 more than ten kilograms of a mixture or substance containing
18 any detectable amount of those substances identified in section
19 124.204, subsection 9.

20 Sec. 22. Section 124.401, subsection 1, paragraph c,
21 unnumbered paragraph 1, Code 2016, is amended to read as
22 follows:

23 Violation of this subsection with respect to the following
24 controlled substances, counterfeit substances, ~~or~~ simulated
25 controlled substances, or imitation controlled substances is a
26 class "C" felony, and in addition to the provisions of section
27 902.9, subsection 1, paragraph "d", shall be punished by a
28 fine of not less than one thousand dollars nor more than fifty
29 thousand dollars:

30 Sec. 23. Section 124.401, subsection 1, paragraph c,
31 subparagraph (2), unnumbered paragraph 1, Code 2016, is amended
32 to read as follows:

33 One hundred grams or less of any of the following, except as
34 provided in paragraph "d", subparagraph (2):

35 Sec. 24. Section 124.401, subsection 1, paragraph c,

1 subparagraph (3), Code 2016, is amended to read as follows:

2 (3) ~~Ten~~ Thirty-five grams or less of a mixture or substance
3 described in subparagraph (2) which contains cocaine base,
4 except as provided in paragraph "d", subparagraph (3).

5 Sec. 25. Section 124.401, subsection 1, paragraph c,
6 subparagraph (8), Code 2016, is amended to read as follows:

7 (8) Any other controlled substance, counterfeit substance,
8 ~~or simulated controlled substance, or imitation controlled~~
9 substance classified in schedule I, II, or III, except as
10 provided in paragraph "d".

11 Sec. 26. Section 124.401, subsection 1, paragraph c, Code
12 2016, is amended by adding the following new subparagraph:

13 NEW SUBPARAGRAPH. (7A) Five kilograms or less of a
14 mixture or substance containing any detectable amount of those
15 substances identified in section 124.204, subsection 9.

16 Sec. 27. Section 124.401, subsection 1, paragraph d, Code
17 2016, is amended to read as follows:

18 d. (1) Violation of this subsection, with respect to
19 any other controlled substances, counterfeit substances, ~~or~~
20 ~~simulated controlled substances classified in section 124.204,~~
21 ~~subsection 4, paragraph "ai", or section 124.204, subsection~~
22 ~~6, paragraph "i", or, or imitation controlled substances~~
23 classified in schedule IV or V is an aggravated misdemeanor.
24 However, violation of this subsection involving fifty kilograms
25 or less of marijuana or involving flunitrazepam is a class "D"
26 felony.

27 (2) A first offense violation of this subsection involving
28 less than three grams of a substance described in paragraph "c",
29 subparagraph (2), is a class "D" felony.

30 (3) A first offense violation of this subsection involving
31 less than three grams of a mixture or substance described in
32 paragraph "c", subparagraph (2), which contains cocaine base
33 is a class "D" felony.

34 Sec. 28. Section 124.401, subsection 2, Code 2016, is
35 amended to read as follows:

1 2. If the same person commits two or more acts which are in
 2 violation of [subsection 1](#) and the acts occur in approximately
 3 the same location or time period so that the acts can be
 4 attributed to a single scheme, plan, or conspiracy, the acts
 5 may be considered a single violation and the weight of the
 6 controlled substances, counterfeit substances, ~~or~~ simulated
 7 controlled substances, or imitation controlled substances
 8 involved may be combined for purposes of charging the offender.

9 Sec. 29. Section 124.401, subsection 5, unnumbered
 10 paragraph 1, Code 2016, is amended to read as follows:

11 It is unlawful for any person knowingly or intentionally
 12 to possess a controlled substance unless such substance was
 13 obtained directly from, or pursuant to, a valid prescription
 14 or order of a practitioner while acting in the course of the
 15 practitioner's professional practice, or except as otherwise
 16 authorized by [this chapter](#). Any person who violates this
 17 subsection is guilty of a serious misdemeanor for a first
 18 offense. A person who commits a violation of [this subsection](#)
 19 and who has previously been convicted of violating [this chapter](#)
 20 or [chapter 124A](#), [124B](#), or [453B](#), or chapter 124A as it existed
 21 prior to July 1, 2016, is guilty of an aggravated misdemeanor.
 22 A person who commits a violation of [this subsection](#) and has
 23 previously been convicted two or more times of violating this
 24 chapter or [chapter 124A](#), [124B](#), or [453B](#), or chapter 124A as it
 25 existed prior to July 1, 2016, is guilty of a class "D" felony.

26 Sec. 30. Section 124.401A, Code 2016, is amended to read as
 27 follows:

28 **124.401A Enhanced penalty for manufacture or distribution to**
 29 **persons on certain real property.**

30 In addition to any other penalties provided in [this chapter](#),
 31 a person who is eighteen years of age or older who unlawfully
 32 manufactures with intent to distribute, distributes, or
 33 possesses with intent to distribute a substance or counterfeit
 34 substance listed in schedule I, II, or III, or a simulated or
 35 imitation controlled substance represented to be a controlled

1 substance classified in schedule I, II, or III, to another
2 person who is eighteen years of age or older in or on, or within
3 one thousand feet of the real property comprising a public or
4 private elementary or secondary school, public park, public
5 swimming pool, public recreation center, or on a marked school
6 bus, may be sentenced up to an additional term of confinement
7 of five years.

8 Sec. 31. Section 124.401B, Code 2016, is amended to read as
9 follows:

10 **124.401B Possession of controlled substances on certain real**
11 **property — additional penalty.**

12 In addition to any other penalties provided in [this chapter](#)
13 or another chapter, a person who unlawfully possesses a
14 substance listed in schedule I, II, or III, or a simulated or
15 imitation controlled substance represented to be a controlled
16 substance classified in schedule I, II, or III, in or on, or
17 within one thousand feet of the real property comprising a
18 public or private elementary or secondary school, public park,
19 public swimming pool, public recreation center, or on a marked
20 school bus, may be sentenced to one hundred hours of community
21 service work for a public agency or a nonprofit charitable
22 organization. The court shall provide the offender with a
23 written statement of the terms and monitoring provisions of the
24 community service.

25 Sec. 32. Section 124.406, subsection 2, Code 2016, is
26 amended to read as follows:

27 2. A person who is eighteen years of age or older who:

28 a. Unlawfully distributes or possesses with the intent to
29 distribute a counterfeit substance listed in schedule I or II,
30 or a simulated or imitation controlled substance represented
31 to be a substance classified in schedule I or II, to a person
32 under eighteen years of age commits a class "B" felony.

33 However, if the substance was distributed in or on, or within
34 one thousand feet of, the real property comprising a public or
35 private elementary or secondary school, public park, public

1 swimming pool, public recreation center, or on a marked school
2 bus, the person shall serve a minimum term of confinement of
3 ten years.

4 *b.* Unlawfully distributes or possesses with intent to
5 distribute a counterfeit substance listed in schedule III, or
6 a simulated or imitation controlled substance represented to
7 be any substance listed in schedule III, to a person under
8 eighteen years of age who is at least three years younger than
9 the violator commits a class "C" felony.

10 *c.* Unlawfully distributes a counterfeit substance listed
11 in schedule IV or V, or a simulated or imitation controlled
12 substance represented to be a substance listed in schedule IV
13 or V, to a person under eighteen years of age who is at least
14 three years younger than the violator commits an aggravated
15 misdemeanor.

16 Sec. 33. Section 124.415, Code 2016, is amended to read as
17 follows:

18 **124.415 Parental and school notification — persons under**
19 **eighteen years of age.**

20 A peace officer shall make a reasonable effort to identify a
21 person under the age of eighteen discovered to be in possession
22 of a controlled substance, counterfeit substance, ~~or~~ simulated
23 controlled substance, or imitation controlled substance in
24 violation of [this chapter](#), and if the person is not referred
25 to juvenile court, the law enforcement agency of which the
26 peace officer is an employee shall make a reasonable attempt
27 to notify the person's custodial parent or legal guardian
28 of such possession, whether or not the person is arrested,
29 unless the officer has reasonable grounds to believe that such
30 notification is not in the best interests of the person or will
31 endanger that person. If the person is taken into custody,
32 the peace officer shall notify a juvenile court officer who
33 shall make a reasonable effort to identify the elementary or
34 secondary school the person attends, if any, and to notify the
35 superintendent of the school district, the superintendent's

1 designee, or the authorities in charge of the nonpublic school
2 of the taking into custody. A reasonable attempt to notify
3 the person includes but is not limited to a telephone call or
4 notice by first-class mail.

5 Sec. 34. NEW SECTION. **124.417 Imitation controlled**
6 **substances — exceptions.**

7 It is not unlawful under this chapter for a person registered
8 under section 124.302, to manufacture, deliver, or possess with
9 the intent to manufacture or deliver, or to act with, one or
10 more other persons to manufacture, deliver, or possess with
11 the intent to manufacture or deliver an imitation controlled
12 substance for use as a placebo by a registered practitioner in
13 the course of professional practice or research.

14 Sec. 35. Section 124.502, subsection 1, paragraph a, Code
15 2016, is amended to read as follows:

16 a. A district judge or district associate judge, within
17 the court's jurisdiction, and upon proper oath or affirmation
18 showing probable cause, may issue warrants for the purpose of
19 conducting administrative inspections under [this chapter](#) or
20 a related rule ~~or under [chapter 124A](#)~~. The warrant may also
21 permit seizures of property appropriate to the inspections.
22 For purposes of the issuance of administrative inspection
23 warrants, probable cause exists upon showing a valid public
24 interest in the effective enforcement of the statute or related
25 rules, sufficient to justify administrative inspection of the
26 area, premises, building, or conveyance in the circumstances
27 specified in the application for the warrant.

28 Sec. 36. Section 155A.6, subsection 3, Code 2016, is amended
29 to read as follows:

30 3. The board shall establish standards for
31 pharmacist-intern registration and may deny, suspend,
32 or revoke a pharmacist-intern registration for failure to meet
33 the standards or for any violation of the laws of this state,
34 another state, or the United States relating to prescription
35 drugs, controlled substances, or nonprescription drugs, or for

1 any violation of [this chapter](#) or [chapter 124](#), ~~[124A](#)~~, [124B](#), [126](#),
2 [147](#), or [205](#), or any rule of the board.

3 Sec. 37. Section 155A.6A, subsection 5, Code 2016, is
4 amended to read as follows:

5 5. The board may deny, suspend, or revoke the registration
6 of, or otherwise discipline, a registered pharmacy technician
7 for any violation of the laws of this state, another state, or
8 the United States relating to prescription drugs, controlled
9 substances, or nonprescription drugs, or for any violation of
10 this chapter or [chapter 124](#), ~~[124A](#)~~, [124B](#), [126](#), [147](#), [205](#), or
11 [272C](#), or any rule of the board.

12 Sec. 38. Section 155A.6B, subsection 5, Code 2016, is
13 amended to read as follows:

14 5. The board may deny, suspend, or revoke the registration
15 of a pharmacy support person or otherwise discipline the
16 pharmacy support person for any violation of the laws of
17 this state, another state, or the United States relating to
18 prescription drugs, controlled substances, or nonprescription
19 drugs, or for any violation of [this chapter](#) or [chapter 124](#),
20 ~~[124A](#)~~, [124B](#), [126](#), [147](#), [205](#), or [272C](#), or any rule of the board.

21 Sec. 39. Section 155A.13A, subsection 3, Code 2016, is
22 amended to read as follows:

23 3. *Discipline.* The board may deny, suspend, or revoke a
24 nonresident pharmacy license for any violation of [this section](#),
25 section 155A.15, subsection 2, paragraph *"a"*, *"b"*, *"d"*, *"e"*,
26 *"f"*, *"g"*, *"h"*, or *"i"*, [chapter 124](#), ~~[124A](#)~~, [124B](#), [126](#), or [205](#), or
27 a rule of the board.

28 Sec. 40. Section 155A.17, subsection 2, Code 2016, is
29 amended to read as follows:

30 2. The board shall establish standards for drug wholesaler
31 licensure and may define specific types of wholesaler licenses.
32 The board may deny, suspend, or revoke a drug wholesale license
33 for failure to meet the applicable standards or for a violation
34 of the laws of this state, another state, or the United
35 States relating to prescription drugs, devices, or controlled

1 substances, or for a violation of **this chapter, chapter 124,**
2 **~~124A~~, 124B, 126, or 205,** or a rule of the board.

3 Sec. 41. Section 155A.42, subsection 4, Code 2016, is
4 amended to read as follows:

5 4. The board may deny, suspend, or revoke a limited drug and
6 device distributor's license for failure to meet the applicable
7 standards or for a violation of the laws of this state, another
8 state, or the United States relating to prescription drugs or
9 controlled substances, or for a violation of **this chapter,**
10 chapter 124, **~~124A~~, 124B, 126, 205, or 272C,** or a rule of the
11 board.

12 Sec. 42. REPEAL. Chapter 124A, Code 2016, is repealed.

13 EXPLANATION

14 The inclusion of this explanation does not constitute agreement with
15 the explanation's substance by the members of the general assembly.

16 This bill relates to controlled substances, including by
17 enhancing the penalties for imitation controlled substances,
18 modifying the controlled substances listed in schedules I,
19 III, IV, and temporarily designating substances as controlled
20 substances.

21 TEMPORARY CONTROLLED SUBSTANCE DESIGNATION. Under current
22 law and in the bill, the board of pharmacy may designate a new
23 substance as a controlled substance, by administrative rule,
24 without the general assembly amending Code chapter 124, only
25 if the substance is designated as a controlled substance under
26 federal law.

27 If the board of pharmacy designates a substance as
28 controlled, the bill specifies that the temporary designation
29 is considered a temporary amendment to the schedules of
30 controlled substances in Code chapter 124, and if the general
31 assembly does not amend Code chapter 124 to enact the temporary
32 amendment and make the enactment effective within two years
33 from the date the temporary amendment first became effective,
34 the temporary amendment is repealed by operation of law two
35 years from the effective date of the temporary amendment. A

1 temporary amendment repealed by operation of law is subject to
2 Code section 4.13 relating to the construction of statutes and
3 the application of a general savings provision.

4 Current law provides that if within 60 days after the next
5 general assembly convenes the general assembly has not made
6 the corresponding changes in Code chapter 124, the temporary
7 designation that the substance is a controlled substance is
8 nullified.

9 COCAINE BASE AND COCAINE. The bill increases the amounts of
10 controlled substances containing cocaine base (crack cocaine)
11 that determine the criminal penalty for certain offenses.
12 Under the bill, if a person unlawfully manufactures, delivers,
13 or possesses with the intent to deliver a controlled substance
14 containing cocaine base, or unlawfully acts with, enters into
15 a common scheme or design with, or conspires with one or more
16 persons to manufacture, deliver, or possess such a controlled
17 substance, the person commits the following offenses: a class
18 "B" felony punishable by confinement of no more than 50 years
19 and a fine of not more than \$1 million if the controlled
20 substance containing cocaine base is more than 125 grams rather
21 than the current 50 grams; a class "B" felony punishable by
22 confinement of no more than 25 years and a fine of not less than
23 \$5,000 but not more than \$100,000 if the imitation controlled
24 substance is more than 35 grams but not more than 125 grams
25 rather than the current 10 to 50 grams; or a class "C" felony
26 punishable by a fine of not less than \$1,000 but not more than
27 \$50,000 if the controlled substance containing cocaine base
28 is 35 grams or less rather than the current 10 grams or less.
29 However, the bill makes it a class "D" felony for a first
30 offense violation involving less than three grams of a mixture
31 or substance which contains cocaine base.

32 The bill also makes it a class "D" felony for a first offense
33 violation involving less than three grams of the following:
34 coca leaves, except coca leaves and extracts of coca leaves
35 from which cocaine, ecgonine, and derivatives of ecgonine and

1 their salts have been removed; cocaine, its salts, optical
2 and geometric isomers, or salts of isomers; or ecgonine, its
3 derivatives, their salts, isomers, or salts of isomers.

4 IMITATION CONTROLLED SUBSTANCES. Under current law
5 imitation controlled substances are regulated under Code
6 chapter 124A. The bill repeals Code chapter 124A and transfers
7 the regulation of imitation controlled substances to Code
8 chapter 124. The definition and designation of an imitation
9 controlled substance in Code chapter 124 remains identical
10 to the definition and designation of an imitation controlled
11 substance under current law in Code chapter 124A.

12 Under the bill and in current law, an imitation controlled
13 substance means a substance which is not a controlled substance
14 but by color, shape, size, markings, and other aspects of
15 dosage unit appearance, and packaging or other factors, appears
16 to be or resembles a controlled substance. The board of
17 pharmacy may designate a substance as an imitation controlled
18 substance pursuant to the board's rulemaking authority and in
19 accordance with Code chapter 17A.

20 In addition, under current law and in the bill, if a
21 substance has not been designated as an imitation controlled
22 substance by the board of pharmacy and when dosage unit
23 appearance alone does not establish that a substance is an
24 imitation controlled substance, the following factors may
25 be considered in determining whether the substance is an
26 imitation controlled substance: the substance is represented
27 as having the effect of a controlled substance; the substance
28 is represented as a controlled substance or as a substitute for
29 a controlled substance because of its nature or appearance;
30 or a person receives money or other property having a value
31 substantially greater than the actual value of the substance
32 when sold.

33 Under the bill, if a person unlawfully manufactures,
34 delivers, or possesses with the intent to deliver an imitation
35 controlled substance containing any detectable amount of those

1 substances identified in Code section 124.204(9), or unlawfully
2 acts with, enters into a common scheme or design with, or
3 conspires with one or more persons to manufacture, deliver,
4 or possess such imitation controlled substances, the person
5 commits the following offense: a class "B" felony punishable
6 by confinement of no more than 50 years and a fine of not more
7 than \$1 million if the imitation controlled substance is more
8 than 10 kilograms; a class "B" felony punishable by confinement
9 of no more than 25 years and a fine of not less than \$5,000 but
10 not more than \$100,000 if the imitation controlled substance
11 is more than five kilograms but not more than 10 kilograms; a
12 class "C" felony punishable by a fine of not less than \$1,000
13 but not more than \$50,000 if the imitation controlled substance
14 is five kilograms or less; or an aggravated misdemeanor if the
15 imitation controlled substance is classified in schedule IV or
16 V; or a serious misdemeanor for a first possession offense,
17 an aggravated misdemeanor for a second possession offense,
18 or a class "D" felony for two or more previous possession
19 offenses. Current law in Code section 124A.4 provides that if
20 a person unlawfully manufactures, delivers, or possesses with
21 intent to deliver an imitation controlled substance, the person
22 commits an aggravated misdemeanor, or if the person delivers
23 to a person under 18 years of age who is at least three years
24 younger than the violator, the person commits a class "D"
25 felony. In addition, under current law, if a person unlawfully
26 and knowingly publishes an advertisement or distributes in a
27 public place a promotion for an imitation controlled substance
28 the person commits a serious misdemeanor.

29 The bill enhances the criminal penalties for controlled
30 substances classified in Code sections 124.204(4)(ai) and
31 124.204(6)(i) from an aggravated misdemeanor to a class "C"
32 felony punishable pursuant to Code section 124.401(1)(c)(8).
33 This change equalizes the criminal penalties with violations
34 involving other schedule I controlled substances.

35 The bill provides that if the same person commits two or

1 more acts which are in violation of Code section 124.401(1)
2 and the acts occur in the same location or time period so the
3 acts are attributable to a single scheme, the acts may be
4 considered a single violation and the weights of the imitation
5 controlled substance may be combined for purposes of charging
6 the offender.

7 The amendment to Code section 124.401A provides that
8 a person who is 18 years of age or older who unlawfully
9 manufactures with the intent to distribute, distributes,
10 or possesses with the intent to distribute an imitation
11 controlled substance to another person 18 years of age or older
12 within 1,000 feet of the real property comprising a public or
13 nonpublic school, may be sentenced up to an additional term of
14 confinement of five years in addition to any other penalty.

15 The amendment to Code section 124.401B provides that
16 a person who unlawfully possesses an imitation controlled
17 substance within 1,000 feet of the real property comprising a
18 school, public park, public pool, public recreation center, or
19 marked school bus may be sentenced up to 100 hours of community
20 service.

21 The amendments to Code section 124.406 relate to the
22 distribution or possession with the intent to distribute an
23 imitation controlled substance to a person under 18 years of
24 age. A person who distributes or possesses with the intent to
25 distribute an imitation controlled substance, represented to
26 be a substance listed in schedule I or schedule II, to a person
27 under 18 years of age commits a class "B" felony. The required
28 penalty for such a violation is a minimum term of confinement
29 of 10 years if the substance was distributed within 1,000
30 feet of the real property comprising a public or nonpublic
31 school, public park, public pool, or public recreation center.
32 A person who distributes or possesses with the intent to
33 distribute an imitation controlled substance, represented to be
34 a substance listed in schedule III, to a person under 18 years
35 of age, who is at least three years younger than the violator,

1 commits a class "C" felony. A person who distributes or
2 possesses with the intent to distribute an imitation controlled
3 substance, represented to be a substance listed in schedule
4 IV or schedule V, to a person under 18 years of age, who is
5 at least three years younger than the violator, commits an
6 aggravated misdemeanor.

7 The amendment to Code section 124.415 requires that a peace
8 officer make a reasonable effort to identify a person under 18
9 years of age discovered to be in possession of an imitation
10 controlled substance, and if the person is not referred to
11 juvenile court, the peace officer shall make a reasonable
12 effort to notify the person's custodial parent of the
13 possession unless the officer has reasonable grounds to believe
14 such notification is not in the best interests of the person.
15 The bill specifies that if the person is taken into custody
16 the juvenile court officer shall make a reasonable effort to
17 identify the school of attendance and to notify the school or
18 nonpublic school of the taking into custody of the person.

19 The bill creates Code section 124.417, which is similar to
20 Code section 124A.5 repealed by the bill. A person registered
21 under Code section 124.302 does not violate the bill if the
22 person manufactures, delivers, possesses, or possesses with the
23 intent to manufacture or deliver, or acts with others to do
24 such activities, if the person uses the imitation controlled
25 substance for use as a placebo by a registered practitioner in
26 the court of professional practice or research.

27 SCHEDULE I, III, AND IV CONTROLLED SUBSTANCES. The bill
28 transfers numerous substances classified as "hallucinogenic
29 substances" under schedule I and reclassifies the substances
30 as "other substances" under schedule I. By transferring the
31 substances to "other substances", a person commits a class "C"
32 felony under Code section 124.401(1)(c)(8) if the violation
33 involves such a substance. Under current law, a person commits
34 an aggravated misdemeanor under Code section 124.401(1)(d) when
35 committing such violations.

1 The bill adds new substances as "hallucinogenic substances"
2 under schedule I. A person commits a class "C" felony under
3 Code section 124.401(1)(c)(8) if the violation involves the new
4 hallucinogenic substances.

5 The bill adds new substances as "stimulants" under schedule
6 I. A person commits a class "C" felony under Code section
7 124.401(1)(c)(8) if the violation involves the new stimulant
8 substances.

9 The bill also adds new substances to the classification of
10 "other substances" under schedule I. A person commits a class
11 "C" felony under Code section 124.401(1)(c)(8) for a violation
12 involving the new substances.

13 The bill strikes one substance classified as a
14 "hallucinogenic substance" under schedule I and reclassifies
15 the substance as a "stimulant" containing a synthetic cathinone
16 under schedule I. The transfer of the substance within
17 schedule I also changes the criminal penalty for a violation
18 involving the substance from a class "C" felony under Code
19 section 124.401(1)(c)(8) to an aggravated misdemeanor under
20 Code section 124.401(1)(d). The bill also strikes a substance
21 in Code section 124.204(6)(i)(3) from schedule I and does not
22 reclassify the substance in any other substance schedule.

23 The bill also removes numerous substances from schedule I
24 which are currently classified as "stimulants" in Code section
25 124.204(6)(i).

26 The bill also strikes two narcotic substances from schedule
27 III and adds three substances to schedule IV. A violation
28 involving a schedule IV controlled substance is punishable as
29 an aggravated misdemeanor in Code section 124.401(1)(d).